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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,900	11/16/2005	Kotaro Horiuchi	HASE.0065	6472

38327 7590 10/03/2006

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EXAMINER

AVILA, STEPHEN P

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/511,900	Applicant(s) HORIUCHI, KOTARO	
	Examiner Stephen Avila	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 10 is/are rejected.
- 7) ☒ Claim(s) 6-9, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>102004, 111605</u> | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tuurna et al. Tuurna et al disclose the claimed subject matter including a sailing device capable for use in a pleasure boat, with a sail portion composed of a backbone 13, a pair of left and right spars (3a, 3b) extending obliquely backward from the fore end of the backbone and a sail-cloth 2 attached at the fore edge thereof to the pair of left and right spars and at the aft end thereof to the aft end of the backbone, and a strut 4 extending downward from the fore end of the backbone, the lower end of said strut being directly mounted on the boat hull for rise and fall or capable indirectly attached to the boat hull by support of a user. With respect to the intended use for use with a pleasure boat the intended use has been given limited weight as intended use defines no patentable structure. Additionally, the device of Tuurna et al is capable of being used with a pleasure boat. With respect to claim 10, the sail of Tuurna et al is inherently detachable from the backbone.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tuurna et al in view of Talve (cited by Applicant). Tuurna et al do disclose the strut be mounted to a boat. Talve discloses a sail device mounted to a boat. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the device to be mounted to a boat as taught by Talve for use over water.

5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuurna et al in view of Brown (4269133). Tuurna et al do not disclose handles and an adapter. Brown teaches a handle 14 and an adapter 26. It would have been obvious to form the device of Tuurna et al with a handle and adapter as taught by Brown for ease of handling by a user.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tuurna et al in view of Priebe. Tuurna et al do not disclose a cambered sail. Priebe teaches a cambered sail. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the sail of Tuurna et al with a camber as taught by Priebe for reduced drag.

7. Claims 6-9 and 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown (4047492).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Avila whose telephone number is 571-272-

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6678. The examiner can normally be reached on Monday to Thursday from 7 AM to 3 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Stephen Avila
Primary Examiner
Art Unit 3617

Avila
9/25/08
